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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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001781101 01/28/01 YACK

A-67680

4022/1033  
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SUITE 3400 FOUR EMBARCADERO CENTER  
SAN FRANCISCO CA 94111-4187

EXAMINER
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JOHANNSEN, P

ART UNIT	PAPER NUMBER
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1685

DATE MAILED: 10/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Notice of Non-Responsive Amendment**


1. The reply filed on August 6, 2001, paper no. 10, is not fully responsive to the prior Office Action because of the following omission(s) or matter(s). It is noted that Applicant provisionally elected with traverse Group VI, claim 9, for further prosecution. However, Applicant amended claim 9 such that the claim now encompasses detection of the expression of multiple patentably distinct genes. Specifically, claim 9 was previously drawn to detection of expression of "a gene encoding BCH1," whereas the claim as now amended requires detection of expression of "one or more genes selected from the group consisting of a gene comprising the nucleic acid sequence of one of SEQ ID NOS: 51, 23 or a fragment thereof". The specification discloses that SEQ ID NO: 23 is a polynucleotide encodes a BCH1 polypeptide, and therefore Group VI as presented in the restriction requirement of paper no. 8 encompasses detection of this SEQ ID NO. However, the specification teaches that SEQ ID NO: 51 is a polynucleotide encoding a patentably distinct polypeptide, BCJ7. The different nucleic acids now recited in claim 9 are distinct for the same reasons given in paragraph 3 of the Office action of paper no. 8, which required applicant to elect a single patentably distinct gene or protein. Accordingly, for the same reasons given in paragraph 3 of the Office action of paper no. 8, Applicant is required to elect a single SEQ ID NO from those recited in amended claim 9. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diana B. Johannsen whose telephone number is 703/305-0761. The examiner can normally be reached on Monday-Friday, 7:00 am-3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones can be reached on 703/308-1152. The fax phone numbers for the organization where this application or proceeding is assigned are 703/305-3014 for regular communications and 703/305-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/308-0196.

Diana B. Johannsen  
October 19, 2001

  
W. Gary Jones  
Supervisory Patent Examiner  
Technology Center 1600